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Attorney for Defendant, Adam Khimji

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(San Francisco)

Before the Court is the Defendant Mr. Adam Khimji's motion for dismissal under Rule 12 and/or a stay. The Court hereby grants the motion on the following terms.

- a. [Dismissal for Lack of Personal Jurisdiction] The Complaint is dismissed under Rule 12(b)(2) for lack of personal jurisdiction, without prejudice to refiling in another court with personal jurisdiction and subject to any defenses the Defendant Adam Khimji may have.
- b. [Alternatively, Dismissal for Lack of Subject Matter Jurisdiction] The Complaint is dismissed under Rule 12(b)(1) for lack of subject matter jurisdiction, without prejudice to refiling in another court with subject matter jurisdiction and subject to any defenses the Defendant Adam Khimji may have.

- 1 c. **[Alternatively, Dismissal Due to the Arbitration Agreement]** The Complaint is
- 2 dismissed under Rule 12(b)(1) and/or 9 U.S. Code § 2-3 for breach of an arbitration
- 3 agreement.
- 4 d. **[Alternatively, Dismissal for Forum Non Conveniens]** The Complaint is dismissed
- 5 for reason of *forum non conveniens* in favour of the Federal Court of Canada.
- 6 e. **[Alternatively, Dismissal for Expiry of the One-Year Limitation Period]** The
- 7 Complaint is dismissed with prejudice under Rule 12(b)(6) for reason of expiry of the
- 8 limitation period.
- 9 f. **[Alternatively, Dismissal for Failure to State Claim]** Counts II, IV, and VI in the
- 10 Complaint are dismissed under Rule 12(b)(6) for failure to state a claim.

11 **IT IS SO ORDERED.**

13 Dated: _____

14 _____
15 WILLIAM H. ORRICK
16 United States District Judge